

REMARKS

This is a full and timely response to the non-final Office Action mailed February 13, 2007. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

Present Status of Patent Application

Upon entry of the amendments in this response, claims 1, 4, 6-10, 14, and 18-25 remain currently pending in the present application. Specifically, claims 4, 7-10, and 19-20 are original, unamended claims; claims 2, 3, 5, 11-13, and 15-17 are canceled without prejudice, waiver or disclaimer; claims 1, 6, 14 and 18 have been currently amended with no addition of new matter; and claims 21-25 are new claims with no addition of new matter. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

A. Claim Rejection under 35 U.S.C. § 102(b)

Statement of the Rejection

Claims 1 and 4 are rejected under 35 U.S.C. §102(b) as being anticipated by Mueller-Mach et al. (US Pub. 2003/0006702).

Response to the Rejection

Currently amended claim 1 specifies that the second phosphor is Sr(Ba,Ca)SiO₄:Eu. Applicants respectfully submit that the cited prior art of Mueller-Mach does not disclose at least this aspect of Applicants' claim 1. Consequently, Applicants request withdrawal of the rejection followed by allowance of claim 1.

Claim 4 is legally allowable because of its dependency on claim 1 that is currently allowable. Applicants therefore request withdrawal of the rejection followed by allowance of claim 4 as well.

B. Claim Rejection under 35 U.S.C. § 103(a)

I. Statement of the Rejection

Claims 3, 6, 9-10, 14, 16, and 18-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller-Mach et al. (US Pub. 2003/0006702) in view of Brunner et al. (US Pub. 2004/0188697).

Response to the Rejection

The MPEP provides several guidelines for rejecting a claim under 35 U.S.C. 103(a).

Specific reference is made to MPEP 706.2(j) *Contents of a 35 U.S.C. 103 Rejection*, which states in pertinent part:

To establish a *prima facie* case of obviousness, **three basic criteria must be met**. First, there must be **some suggestion or motivation**, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a **reasonable expectation of success**. Finally, the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143 - § 2143.03 for decisions pertinent to each of these criteria.
(Emphasis added)

Applicants respectfully assert that the current rejection of claims 3, 6, 9-10, 14, 16, and 18-20 is improper because the Office action fails to satisfy the requirements of MPEP 706.2(j) for establishing a *prima facie* case of obviousness. Remarks related to specific claims are provided below.

Claims 3 and 16

Claims 3 and 16 have been currently canceled thereby rendering moot the rejection of these claims.

Claims 6, 9 and 10

Because independent claim 1 is allowable, claims 6, 9 and 10 that each depends directly on claim 1 are also allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Consequently, Applicants respectfully request allowance of claims 6, 9 and 10.

Claim 14

The Office action fails to provide a satisfactory motivation or suggestion to combine Mueller-Mach with Brunner. Therefore, the rejection fails to satisfy the first criterion of MPEP 706.2(j) for establishing a *prima facie* case of obviousness. (Applicants assume that the Office action reference to "Soules" (instead of Brunner) is an oversight.)

Furthermore, currently amended claim 14 specifies that the second phosphor is Sr(Ba,Ca)SiO₄:Eu. Applicants respectfully submit that the cited prior art, individually or in combination fail to disclose at least this aspect of Applicants' claim 14. Consequently, the third criterion of MPEP 706.2(j) for establishing a *prima facie* case of obviousness cannot be satisfied.

For at least the reasons stated above, Applicants request withdrawal of the rejection followed by allowance of claim 14.

Claims 18-20

Because independent claim 14 is allowable, claims 18-20 that each depends directly on claim 14 are also allowable as a matter of law. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

II. Statement of the Rejection

Claims 7-8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Mueller-Mach et al. (US Pub. 2003/0006702) in view of Marshall et al. (US 6,513,949).

Response to the Rejection

The Office action fails to provide a satisfactory motivation or suggestion to combine Mueller-Mach with Marshall other than to state that it would have been obvious to combine them “*in order to have an improved performance hybrid lighting system.*” Applicants’ claims 7 and 8 are not directed towards a “hybrid” lighting system. Therefore, the provided motivation is irrelevant. Consequently, the rejection fails to satisfy the first criterion of MPEP 706.2(j) for establishing a *prima facie* case of obviousness.

The rejection further fails to satisfy the third criterion of MPEP 706.2(j) (vis-à-vis the prior art reference(s) must teach or suggest all claim limitations). In this matter, the Office action asserts: *Mueller-Mach et al. do not disclose a second LED. However, Marshall et al. disclose a second LED with epoxy phosphors mixture (Marshall, fig. 2). Marshall et al. teach the second LED exhibits improved performance over conventional LED lighting system (Marshall col. 1, lines 6-12)...* (Emphasis added).

As accurately pointed out in this Office action statement, Marshall, in his fig. 2 (as well as other figures) combines one or more *conventional* LEDs with a single phosphor-LED. Specifically, in his fig. 2, Marshall combines a red LED (22) with a single phosphor-LED (24).

In contrast, Applicants’ claims 7 and 8 pertain to a second and a third phosphor-LED, which are in addition to the first phosphor LED specified in independent claim 1 (from which both these claims are dependent). The cited prior art, individually or combinedly do not disclose **two or more phosphor LEDs** combined together as is cited in Applicants claims 7 (second LED) and 8 (third LED). Consequently, the rejection fails to satisfy the third criterion of MPEP 706.2(j).

In summary, for at least the reasons cited above, Applicants respectfully assert that the current rejection of claims 7 and 8 are improper because the Office action fails to establish a *prima facie* case of obviousness that satisfies MPEP 706.2(j) for a proper rejection under 35 U.S.C. §103(a). Therefore, Applicants hereby request withdrawal of the rejection, followed by allowance of claims 7 and 8.

Prior Art Made of Record

The prior art made of record has been considered, but is not believed to affect the patentability of the presently pending claims.

CONCLUSION

In light of the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that all pending claims 1, 4, 6-10, 14, and 18-25 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned representative at (404) 610-5689.

Respectfully submitted,

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I hereby certify that this paper is being electronically transmitted to the Commissioner for Patents on the date shown below:

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